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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,564	08/22/2001	Ryan M. Hileman	HILE-1-1001	8862

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EXAMINER

WEBB, JAMISUE A

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/935,564	Applicant(s) HILEMAN, RYAN M.	
	Examiner Jamisue A. Webb	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 20-43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20050106</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Claims 1-19 in the reply filed on 2/2/06 is acknowledged.

Claim Objections

2. Claim 5 is objected to because of the following informalities: The steps reciting the phrase of "if account authorization for the requested transportation is obtained" and "if account authorization for the requested transportation is not obtained" are unclear. The previous steps request account authorization for payment, which the term "for payment" is not in this "if" statement. Therefore, the claim does not attempt to collect account authorization; it attempts to collect account authorization for payment. The examiner suggests adding the words "for payment" in the phrases mentioned above. Furthermore, the claim appears to have a typographical error "at least on (If passenger or package". Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 9-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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5. Claim 9 recites the limitation "the selected transportation options" in line 19. Claims 13 and 18 recites the limitation "the selected transportation option". There is insufficient antecedent basis for these limitations in the claims. The claims recite selecting transportation according to one of the options, but do not disclose selecting transportation options.

Claim Rejections - 35 USC § 101

6. Claims 1-6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-6 are drawn to a system, which includes a vehicle and a vehicle user. The system claim are defined by their structural limitations, and therefore the phrase "a vehicle having a vehicle user" is positively claiming a person. A person is considered to be non-statutory subject matter.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-4, 6-16, 18 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Smith et al. (6,430,496).

9. With respect to Claims 1 and 7: Smith discloses an on-demand transportation system for use in scheduling at least one of passenger or package transportation (see abstract) comprising:

- a. A user system for scheduling (means for scheduling) the transportation (18, Figure 1, and abstract) having a communications device (See Reference numeral 24, with brief description);
- b. A vehicle (transportation means) having a vehicle user for providing the transportation comprising a communications device (Column 8, lines 61-67) for transmitting and receiving information, a user interface for allowing the vehicle user to perform various interactive functions (Column 8, lines 61-67), and a processing system having a processor, memory and database for controlling vehicle system components (Smith discloses the vehicle runs an operating system which communicates with the AVL system, therefore it is the examiner's position that Smith inherently discloses the vehicles has a processor and a memory that stores data, due to the fact that memory and a processor are required in a computer to run an operating system);
- c. A server (10) maintaining information (means for maintaining) on logistical and geographic features of the area for transportation is offered (26), information on the location, capacity and availability of the vehicle (Reference numeral 28, Column 14, lines 20-28), and information on current and historical traffic conditions along possible routes of travel (Claim 53, the examiner considers this to be historical traffic information); and
- d. Data channel (means for providing communication) providing communication amount the user system, vehicle and server (Column 4, line 65 to Column 5, line 7).

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2. With respect to Claim 2: Smith discloses the server further maintains identify and credit authorization information associated with the passenger or package (Smith, discloses the use of Electronic billing, where the shipping can be paid electronically, Column 21, lines 30-41, the examiner considers the fact that when a user pays a bill, using online billing, to be credit authorization, due to the fact that when a user submits a payment it is giving the payee permission for the credit).

3. With respect to Claim 3: Smith discloses the server comprises a memory containing stored program instructions executable by the server, comprises:

e. A component configured to receive transportation request information via the data channel (Reference numerals 12, 14 and 16, Column 4, line 65 to Column 5, line 7);

f. A component configured to evaluate the request information to determine transportation options (26), including available routes and costs associated with transportation (Column 16, lines 56-65, Claim 70 and Figure 3A).

g. A component configured to notify the user system of transportation options (24).

4. With respect to Claim 4: Smith discloses the evaluation component utilizes information on the logistical and geographic features of the area and availability of the vehicle and current and historical traffic conditions along possible routes (Claim 53, the examiner considers this to be historical traffic information).

5. With respect to Claim 6: Smith discloses the data channel further comprises a satellite system having a satellite dish facilitating information exchange (Column 4, lines 65-67).

6. With respect to Claim 8: Smith discloses the scheduling means is configured to evaluate transportation requests to determine transportation options, including available routes of travel

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and cost (See Claim 70 and Figure 3A). The scheduling means utilizes information on the logistical and geographic features of the area and availability of the vehicle and current and historical traffic conditions along possible routes (See Claim 53).

7. With respect to Claims 9 and 13: Smith discloses a method for scheduling at least one package or passenger in an on-demand transportation system (see abstract) comprising the steps:
 - h. Requesting transportation information from the server via a data channel (Column 4, lines 57-64);
 - i. Evaluating the transportation request information to determine transportation options, including available routes (reference numeral 66; and Column 16, lines 56-65);
 - j. Calculating charges associated with routes (See Claims 70-72 and Figure 3A)
 - k. Notifying the user system of options via a data channel (See Process 24);
 - l. Selecting transportation according to at least one of the transportation options (See Component 26); and
 - m. Scheduling transportation for the passenger or package according to at least one of the selected transportation options (See Step 70).
 - n. Updating server with information on the selected transportation option (Data files, such as dispatch records, see step 72).
8. With respect to Claims 10 and 14: Smith discloses the saving the transportation options in the server memory (See Step 72, saving all information into data files such as dispatch records, See Figure 5, with corresponding detailed description).
9. With respect to Claim 11: Smith discloses determining charges associated with the transportation (See Claims 70-72).

10. With respect to Claim 12: Smith discloses determining charges is dependent on at least one of logistical and geographical features, the location, capacity and availability of a delivery vehicle, and current and historical traffic conditions (See Claim 72).

11. With respect to Claim 15: Smith discloses the transportation request information such as origin and destination addresses (See Figure 3A).

12. With respect to Claim 16: Smith discloses the determination optimal routes of transportation comprises:

- o. Determining possible routes of travel (Column 16, lines 56-65);
- p. Determining vehicles capable of providing transportation and vehicle transportation information, including vehicle location, capacity and availability information (Column 16, lines 37-55); and
- q. Determining predicted traffic conditions along possible routes of travel based on existing and historical traffic conditions (Claim 53, the examiner considers this to be historical traffic information).

13. With respect to Claim 18: Smith discloses notifying the user system of the imminent pickup of the passenger or package (See Process 24).

14. With respect to Claim 19: Smith discloses the charges associated with the transportation are based on at least one of: logistical and geographical features, the location, capacity and availability of a delivery vehicle, and current and historical traffic conditions (See Claims 70-72, and Figure 3A).

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

17. Claims 5 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al (6,430,496) in view of Kraisser et al. (6,701,299).

18. Smith, discloses the use of the scheduling component with an electronic billing system, but is silent to the use of user accounts. Kraisser discloses a scheduling component comprises:

r. If account information exists, requesting account authorization for payment (See Figure 9 with corresponding detailed description) and if account information does not exist, establishing an account and requesting authorization for payment for the transportation (See Figure 10, with corresponding detailed description). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify Smith, to allow a user to register with the system, in order to provide a

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convenience to a returning customer, of not having to re enter personal information for every use. (See Kraisser, Column 16).

19. Smith, also fails to disclose if the account authorization is obtained charging the account, and if it is not obtained to provide notification of alternative payment options. The examiner takes official notice that it is old and well known in the art that when something is paid for using a credit card, it needs approval from the credit card company, and notification is given to a customer for the option of another type of payment. This happens whenever you have an in-store purchase. A shopper will pay by credit card, when the card is approved the customer's credit card gets charged, or it will be declined, and the cashier will ask the customer for another form of payment. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made, to obtain claims 5 and 7, in order to provide a customer friendly payment system.

Conclusion

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ross (5,444,444) discloses the use of an apparatus and method of scheduling delivery and OOMeara et al. (US 2002/0077876) discloses the use of allocation of location-based orders to a mobile agent, such as taxis.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (571) 272-6811.

The examiner can normally be reached on M-F (7:30 - 4:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Jamisue Webb', is positioned above the printed name.

Jamisue Webb
Patent Examiner
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